

CHAPTER 2

PUBLIC EMPLOYEES' RETIREMENT SYSTEM

Authority

N.J.S.A. 43:15A-17.

Source and Effective Date

R.2000 d.26, effective December 17, 1999.
See: 31 N.J.R. 3229(a), 32 N.J.R. 304(a).

Executive Order No. 66(1978) Expiration Date

Chapter 2, Public Employees' Retirement System, expires on December 17, 2004.

Chapter Historical Note

Chapter 2, Public Employees' Retirement System was filed and became effective prior to September 1, 1969. Pursuant to Executive Order No. 66(1978), Chapter 2 expired on October 9, 1984.

Chapter 2, Public Employees' Retirement System, was adopted as new rules by R.1984 d.562, effective December 17, 1984. See: 16 N.J.R. 2515(b), 16 N.J.R. 3479(a).

Pursuant to Executive Order No. 66(1978), Chapter 2, Public Employees' Retirement System, was readopted as R.1989 d.597, effective November 8, 1989. See: 21 N.J.R. 2439(a), 21 N.J.R. 3788(a). Pursuant to Executive Order No. 66(1978), Chapter 2 expired on November 8, 1994.

Chapter 2, Public Employees' Retirement System, was adopted as new rules by R.1995 d.91, effective February 21, 1995. See: 26 N.J.R. 4747(a), 27 N.J.R. 754(a).

Pursuant to Executive Order No. 66(1978), Chapter 2, Public Employees Retirement System, was readopted as R.2000 d.26, effective December 17, 1999. See: Source and Effective Date. See, also, section annotations.

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SUBCHAPTER 1. ADMINISTRATION

17:2-1.1 Board meetings

(a) The Board of Trustees shall meet on the third Wednesday of each month or at such other time as may be deemed necessary by the Board.

(b) The chairperson may call for special meetings when necessary.

Amended by R.1977 d.148, effective April 27, 1977.

See: 9 N.J.R. 142(b), 9 N.J.R. 295(a).

Amended by R.2000 d.26, effective January 18, 2000.

See: 31 N.J.R. 3229(a), 32 N.J.R. 304(a).

Deleted former (b); and recodified former (c) as (b), and substituted a reference to chairpersons for a reference to chairmen.

17:2-1.2 Fiscal year

The transaction of business and control of finance shall be conducted from a July 1 to June 30 fiscal year, with the exception of the actuarial valuation, which shall be prepared on the basis of the membership payroll status of all account results as of March 31 of each year.

17:2-1.3 Officers and committees

(a) The members of the Board shall elect a chairperson and vice chairperson, a representative to the State Investment Council, and the Pension System Actuary Committee from its membership for the forthcoming year at its regular meeting held in July.

(b) The chairperson of the Board shall preside at all of its meetings, or in the absence of the chairperson, the vice chairperson shall assume the chairperson's responsibilities.

(c) The chairperson and the Secretary of the Board shall have the power to act for the Board in any matter which may be referred to them by the Board of Trustees.

(d) There shall be three standing committees, which are the finance committee, the retirement committee, and the executive committee. The committees shall be appointed by the chairperson at the July meeting for the forthcoming fiscal year.

(e) The finance committee shall review all investment transactions and financial reports referred to it by the Secretary for presentation to the Board at its regular monthly meetings. The committee shall consist of five members, three of whom shall be elected members of the Board.

(f) The retirement committee shall consider all cases referred to it by the Secretary and submit its recommendations to the Board at its next meeting. The committee shall consist of three members.

(g) The executive committee shall consider all cases referred to it by the Secretary and submit its recommendations to the Board at its next meeting. The committee shall consist of three members.

As amended, R.1971 d.71, effective May 18, 1971.

See: 3 N.J.R. 50(a), 3 N.J.R. 117(b).

As amended, R.1976 d.383, effective December 6, 1976.

See: 8 N.J.R. 537(c), 8 N.J.R. 48(a).

Amended by R.2000 d.26, effective January 18, 2000.

See: 31 N.J.R. 3229(a), 32 N.J.R. 304(a).

Substituted references to chairpersons for references to chairmen throughout; in (a), inserted a reference to a representative to the State Investment Council and the Pension System Actuary Committee; and in (e), substituted "five members, three of whom shall be elected members of the Board" for "three members" at the end.

17:2-1.4 Election of member-trustee

(a) The procedures for the election of a State, municipal, or county trustee representative to the Public Employees' Retirement System (PERS) Board of Trustees are set forth in this section.

(b) Eligible candidates shall include any active or retired member of the PERS. Only State members may seek State seats, only municipal members may seek municipal seats, and only county members may seek county seats on the Board of Trustees. All candidates shall comply with any and all requirements as provided by law and these rules. Any candidate who fails to comply with the law and these rules is automatically disqualified as a candidate.

(c) The following apply to election notices:

1. At least nine months prior to the expiration of the term of each elected trustee or immediately upon a vacancy on the Board, a notice shall be prepared and distributed by the Secretary of the Board or a contracted vendor through the certifying officers to each member who is eligible to vote.

Case Notes

Rule held a valid exercise of rulemaking authority, both reasonably and rationally related to purpose of enabling legislation: denial of death benefits to survivor of decedent public employee held proper where decedent died before his elected delay in pension enrollment expired and made no pension contributions. *Frew v. Bd. of Trustees, Public Employees' Retirement System*, 8 N.J.A.R. 16 (1984), affirmed per curiam Docket No. A-4071-83T6 (App.Div.1984).

Determination of non-temporary employee status requiring enrollment in PERS: equitable determination of monies to be repaid PERS for pension benefits received. *Vliet v. Bd. of Trustees, Public Employees' Retirement System*, 156 N.J.Super. 83, 383 A.2d 463 (App.Div. 1978).

17:2-2.5 Optional enrollment

(a) Any employee, other than a veteran, who was considered an optional enrollee prior to July 1, 1966, under the previous rules of the board, shall continue to retain the option to enroll or not enroll if his employer does not change.

(b) Part-time employees who cannot be classified as veterans and who were hired prior to July 1, 1966, are considered optional enrollees.

Amended by R.1971 d.71, effective May 18, 1971.
See: 3 N.J.R. 50(a), 3 N.J.R. 117(b).

17:2-2.6 Enrollment eligibility of professors and instructors employed on a temporary, provisional or adjunct basis by public institutions of higher education

(a) Professors and instructors, employed on a temporary, provisional or adjunct basis by public institutions of higher education, who are not in regularly appointed teaching or administrative staff positions, in classified or unclassified positions with a Civil Service employer, or in regularly budgeted positions with a non-Civil Service employer, shall be eligible for enrollment if they:

1. Earn more than the minimum threshold salary required for enrollment;
2. Work for the entire normal school year; and
3. Have their services renewed for the succeeding school year.

(b) Professors and instructors employed on a temporary, provisional or adjunct basis by public institutions of higher education who are not in regularly appointed teaching or administrative staff positions, in classified or unclassified positions with a Civil Service employer, or in regularly budgeted positions with a non-Civil Service employer, shall not be eligible for enrollment or salary or service credit on the basis of any course they teach which:

1. Provides no academic credit; and
2. Varies in length from the normal academic semester.

New Rule, R.1999 d.61, effective March 1, 1999.
See: 30 N.J.R. 4146(b), 31 N.J.R. 668(b).

17:2-2.7 Enrollment following deferred retirement

(a) The membership account under which a member elected deferred retirement who resumes regular service prior to age 60 shall be reinstated.

1. The member shall be assigned the original rate of contribution if the member resumes service before a period of two years has elapsed since the member last made a contribution to the account.

2. If there has been a lapse of more than two years, a commuted rate shall be assigned. Such commuted rate of contribution shall be determined by adding the lapsed period to the member's age as of the date of original enrollment.

3. Members who return to employment after July 1, 1995 shall be assigned the contribution rate of five percent.

Amended by R.2000 d.26, effective January 18, 2000.
See: 31 N.J.R. 3229(a), 32 N.J.R. 304(a).

In (a), neutralized gender references throughout, and added 3.

Case Notes

Retired city employee who accepted city manager position with another city would be required to re-enroll in PERS and cancel his retirement benefits, even though employee and city which hired him considered employee to be independent contractor. *Murphy v. Public Employees' Retirement System*, 96 N.J.A.R.2d (TYP) 235.

SUBCHAPTER 3. INSURANCE AND DEATH BENEFITS**17:2-3.1 Compulsory and optional enrollment**

(a) For the purpose of contributory insurance, all compulsory enrollees, including veterans, under age 60 at the time their enrollment application is filed, shall be required to participate in the contributory insurance program for one year (12 calendar months) from the date of enrollment, or the effective date of insurance premium deduction, whichever is later. Proof of insurability shall be required for all compulsory and optional enrollees, age 60 or older, in order to qualify for noncontributory and contributory insurance coverage.

(b) Optional enrollees under age 60 may qualify for noncontributory and contributory insurance coverage only if they were actively at work performing all of the duties that the position requires at the time they made application for enrollment, and such application was filed within one year from the date they first became eligible for enrollment in the system. If an application for an optional enrollee is not received within one year after he became eligible for enrollment, evidence of insurability will be required for the non-contributory and contributory coverage.

(c) When proof of insurability is required, the member's opportunity to prove such insurability shall expire one year (12 months) from the date the initial written notice is sent advising the member that the member must prove insurability by taking a medical examination and meeting the eligibility requirements of the Retirement System underwriter.

As amended, R.1979 d.399, effective October 9, 1979.

See: 11 N.J.R. 411(a), 11 N.J.R. 596(b).

Amended by R.1987 d.144, effective April 6, 1987.

See: 18 N.J.R. 2320(b), 19 N.J.R. 565(a).

Deleted (a) and renumbered (d) to (c).

Amended by R.2000 d.26, effective January 18, 2000.

See: 31 N.J.R. 3229(a), 32 N.J.R. 304(a).

In (c), added "and meeting the eligibility requirements of the Retirement System underwriter".

Case Notes

Life insurance benefits were properly denied where deceased was not public employee at time of his death. *Bossinger v. Public Employees' Retirement System*, 96 N.J.A.R.2d (TYP) 170.

Member's estate not entitled to noncontributory death benefits where member resigned, chose deferred retirement, but died before reaching age 60. *Estate of Sant' Angelo v. Board of Trustees, Public Employees' Retirement System*, 93 N.J.A.R.2d (TYP) 116.

Request to permit petitioner to prove insurability for life insurance purposes granted: statute and rule found to set no time limit for furnishing such proof. *Watson v. Bd. of Trustees, Public Employees' Retirement System*, 4 N.J.A.R. 380 (1980).

17:2-3.2 Computation of insurance benefits

(a) A member's insurance death benefit shall be based upon the base salary that is attributable to the 12 months or 26 biweekly pay periods immediately preceding the member's death upon which contributions to the annuity savings fund were made.

(b) For the purpose of calculating the benefit payable in (a) above, the salary, in a month or biweekly pay period in which no salary was paid, shall be counted as zero.

(c) Full salary credit will be given for the monthly or biweekly pay period in which a member dies, if the member was paid salary to date of death and the salary paid was sufficient to permit a full normal monthly or biweekly pension and insurance contribution deduction, provided such deduction was made by the employer.

(d) If a member dies during the first year following the member's date of enrollment, or if the member has contributed pension contributions for less than a year although the member's enrollment has been in effect for more than a year, the contributory insurance benefit shall be 1½ times the member's annual base salary on which the member contributed or would have contributed immediately prior to death. The noncontributory insurance benefit shall be 1½ times the actual base salary upon which contributions to the annuity savings fund were due from the date of enrollment to the date of death.

(e) Where post-audits establish the insurance benefits were underpaid, an additional check shall be sent to the beneficiary for the value of the underpayment.

(f) Refunds of a deceased member's pension contributions will be made to the member's designated beneficiary or the employer after written confirmation is received from the employer setting forth the reason for the refund of pension contributions to either the beneficiary or to the employer.

(g) Members who prove their insurability for the group life insurance benefits shall have their insurance benefit calculated on the basis of salary they received or salary upon which pension contributions were based during their last year (10 and 12 months) of service prior to death, regardless of their effective date of insurance coverage.

(h) In computing the salary upon which pension contributions were based during a member's last year of service, in the case of a 12-month employee reported 12 months a year on a biweekly basis, a total of 26 biweekly pays will be used, including any retroactive salary payments made within the prescribed period. The total salary will be adjusted by multiplying the total by the factors supplied by the actuary; such adjustment will compensate for biweekly payroll schedules.

(i) In computing (h) above in the case of employees reported on a 10-month basis, the total biweekly pays will include those pay periods in the third quarter of each year in which a member does not receive salary. The adjustment as specified in (h) shall not be made.

(j) If a member was reported on a biweekly basis or any combination of 10 and 12-month contract years, the last year's salary prior to death, shall be determined on a proportional basis.

As amended, R.1974 d.230, effective August 19, 1974.

See: 6 N.J.R. 32(a), 6 N.J.R. 361(a).

As amended, R.1978 d.138, effective May 1, 1978.

See: 10 N.J.R. 38(a), 10 N.J.R. 265(c).

Amended by R.1990 d.377, effective August 6, 1990.

See: 22 N.J.R. 1348(a), 22 N.J.R. 2342(c).

Stylistic changes; benefits based on contributions attributable to 12 months preceding death of member.

Amended by R.2000 d.26, effective January 18, 2000.

See: 31 N.J.R. 3229(a), 32 N.J.R. 304(a).

Rewrote the section.

17:2-3.3 Contributory insurance rate

All participating members' contribution rate for contributory group insurance shall be one-half of one percent (.005) of the member's base or contractual salary, effective as of January 1, 1999.

As amended, R.1970 d.133, effective November 2, 1970.

See: 2 N.J.R. 86(d), 2 N.J.R. 102(b).

As amended R.1978 d.139, effective May 1, 1978.

See: 10 N.J.R. 127(b), 10 N.J.R. 265(d).

As amended, R.1982 d.343, effective October 18, 1982.